

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION**

ALTHEIA ELLEN TILLEY, Individually
and as parent, natural guardian, and
next best friend of Clifton Townsley

PLAINTIFFS

v.

NO. 4:06CV01669 BSM/HDY

SCHNEIDER NATIONAL CARRIERS, INC.
and DWAYNE E. KIMBREL

DEFENDANTS

FINDINGS AND RECOMMENDATION

INSTRUCTIONS

The following findings and recommendation have been sent to United States District Judge Brian S. Miller. Any party may serve and file written objections to these findings and recommendation. Objections should be specific and should include the factual or legal basis for the objection. If the objection is to a factual finding, specifically identify that finding and the evidence that supports your objection. An original and one copy of your objections must be received in the Office of the United States District Court Clerk no later than eleven (11) days from the date of the findings and recommendation. The copy will be furnished to the opposing party. Failure to file timely objections may result in a waiver of the right to appeal questions of fact.

If you are objecting to the recommendation and also desire to submit new, different, or additional evidence, and to have a hearing for this purpose before the District Judge, you must, at the same time that you file your written objections, include the following:

1. Why the record made before the Magistrate Judge is inadequate.
2. Why the evidence proffered at the hearing before the District Judge (if such a hearing is granted) was not offered at the hearing before the Magistrate Judge.
3. The details of any testimony desired to be introduced at the hearing before the District Judge in the form of an offer of proof, and a copy, or the original, of any documentary or other non-testimonial evidence desired to be introduced at the hearing before the District Judge.

From this submission, the District Judge will determine the necessity for an additional evidentiary hearing, either before the Magistrate Judge or before the District Judge.

Mail your objections and "Statement of Necessity" to:

Clerk, United States District Court
Eastern District of Arkansas
600 West Capitol Avenue, Suite A149
Little Rock, Arkansas 72201-3325

DISPOSITION

28 U.S.C. 636. The Magistrate Judges Act is codified at 28 U.S.C. 636. Paragraph (e)(6) of section 636 provides that upon the commission of an act in a proceeding before a magistrate judge under 28 U.S.C. 636(a) or (b), that may constitute civil contempt, the magistrate judge shall do the following:

forthwith certify the facts to a district judge and may serve or cause to be served, upon any person whose behavior is brought into question under this paragraph, an order requiring such person to appear before a district judge upon a day certain to show cause why that person should not be adjudged in contempt by reason of the facts so certified.

In accordance with the foregoing, the undersigned certifies the following facts to United States District Judge Brian S. Miller.

FACTS. On May 9, 2008, the proceeding at bar was referred to the undersigned at the parties' request for the purpose of conducting a settlement conference. See Document 41. A representative of the undersigned contacted the parties' attorneys and found a mutually agreeable day and time for the settlement conference, i.e., 9:30 a.m. on May 21, 2008. A settlement conference was then scheduled for that day and time. See Document 43. The settlement conference convened as scheduled. The attorney representing plaintiff Altheia Ellen Tilley ("Tilley") was present, as were the following: (1) the attorney representing the defendants and his assistant, and (2) the defendants' representative from the State of Wisconsin. Tilley, though, never appeared at the settlement conference. Given her absence, the settlement conference was cancelled.

RECOMMENDATION. The undersigned recommends that an order be issued requiring Tilley and her attorney to appear before Judge Miller upon a day certain to show cause why Tilley or her attorney should not be adjudged in contempt by reason of the facts so certified.

DATED this 27 day of May, 2008.



UNITED STATES MAGISTRATE JUDGE